



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

518-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

CARL LM NAEHRITZ, III, DC  
2900 HIGHWAY 121 SUITE 120  
BEDFORD TX 76021

DWC Claim #:  
Injured Employee:  
Date of Injury:  
Employer Name: UNI  
Insurance Carrier #:

#### **Respondent Name**

LM INSURANCE CORP

#### **Carrier's Austin Representative Box**

Box Number 01

#### **MFDR Tracking Number**

M4-07-4071-01

#### **MFDR Date Received**

FEBRUARY 20, 2007

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "...[Injured employee] injured her lower back at work on 12-14-05. She was lifting bags and putting them on to a conveyer belt, when she felt a sharp pain in her lower back. According to Texas Department of Insurance rule states that the patient has within 30 days to report their accident, and rule 120.2(c), states that the employer should report the injury no later than the eighth day after the receipt of notice of injury. [Injured employer's] employer had complied with the rules, but Liberty Mutual Insurance did not comply with rule 133.240(k), rule 133,250(f), and rule 133.304"

**Amount in Dispute:** \$1,595.60\*

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "Liberty Mutual processes all Workers' Compensation medical billings within the rules and guidelines of the Texas Workers' Compensation Commission Act and Rules. The billed charge for date of service 02/20/06 and 05/10/06 is denied as exceeding the 95 day submission time period. Our records indicate that this bill was not received until 01/18/07 and reimbursement had already been issued for **39 therapy visits, and pre-authorization was given for ONLY 36 VISITS. The payment EOBs showing payment of 39 visits are enclosed.** Documentation [sic] submitted for 04/07/06 for code 99215 does not support the level of service billed Date of service 05/19/06 is denied as not pre-authorized as per stated above, we have already exceeded the number of therapy visits pre-authorized. Code 99354 for 06/20/06 is denied as unnecessary medical. Documentation from the Medicare Correct Coding Guide is enclosed to show our rationale for denial of code 99211 as billed with code 99455."

**Response Submitted by:** Liberty Mutual Insurance Co., PO Box 3423, Gainesville, GA 30503

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
February 20, 2006 March 31, 2006 May 10, 2006	CPT Codes 97140-59, 99213, G)283, 97110, 97112, 97530-59	\$795.78	\$0.00

March 17, 2006	HCPCS Code L3350	\$151.50	\$0.00
April 7, 2006 June 2, 2006	CPT Code 99215 CPT Codes 99354 and 99211	\$300.49	\$0.00
May 19, 2006	CPT Codes 97140-59, 97530-59, 97112-59	\$210.54	\$0.00
May 19, 2006	CPT Code 97750-RM	111.93	\$21.04

### ***FINDINGS AND DECISION***

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

#### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.202 sets out the procedures for reimbursement of treatments/services.
3. 28 Texas Administrative Code §134.600 sets out the procedures for obtain preauthorization.
4. 28 Texas Administrative Code §133.20 sets out the procedures for health care providers to submit workers' compensation medical bills for reimbursement.
5. 28 Texas Administrative Code §102.4 sets out the rules for non-Commission communications.
6. Texas Labor Code §408.027 sets out the rules for timely submission of a claim by a health care provider.
7. 18 Texas Labor Code §408.0272 sets out the rules for certain exceptions for untimely submission of a claim by a health care provider.
8. The services in dispute were reduced/denied by the respondent with the following reason codes:

- Explanation of benefits dated February 6, 2007, February 23, 2007, March 30, 2006, April 27, 2006, May 22, 2006, June 8, 2006, June 16, 2006, June 28, 2006, July 12, 2006, July 21, 2006, July 28, 2006, August 23, 2006, August 30, 2006, November 30, 2006, December 12, 2006
- 29, F286 – Date(s) of service exceed (95) day time period for submission per Rule 408.027 and Bulletin No. B-0037-05A.
  - 150, X901 – Documentation does not support level of service billed.
  - 18, U301 – This item was previously submitted and reviewed with notification of decision issued to payor/provider (Duplicate Invoice).
  - W1, Z560, Z710 – The charge for this procedure exceeds the fee schedule or usual and customary allowance.
  - 62, X170 – Pre-authorization was required, but not requested for this service per TWCC Rule 134.600.
  - 45, P303 – This contracted provider or hospital has agreed to reduce this charge below fee schedule or usual and customary charges for your business. For services regarding the First Health owned Network Contract, please call...
  - 50, X375 – Unnecessary Medical Treatment or Service.
  - W9, X435 – Based on peer review, further treatment is not recommended.

#### **Issues**

1. Did the requestor submit an updated table?
2. Did the requestor withdraw HCPCS Code A9150 for date of service March 31, 2006?
3. Did the requestor submit documentation to support the disputed services were submitted to the respondent in accordance with 28 Texas Administrative Code §133.20?
4. Did the insurance carrier reimbursed the requestor in accordance with 28 Texas Administrative Code §134.202?
5. Did the requestor submit documentation to support preauthorization was obtained for the disputed dates of service in accordance with 28 Texas Administrative Code §134.600?
6. Did either of the parties submit documentation to support that the requestor had a contract with First Health at the time the services/treatment was rendered?
7. Did the requestor submit dates of service which were denied for medical necessity or documentation does not support level of service billed.

## **Findings**

1. The original disputed amount was \$2,711.61. On March 2, 2007 the healthcare provider submitted an updated table with a disputed amount of \$1,595.60
2. On January 29, 2008, the health care provider withdrew HCPCS Code A9150; therefore, this code will not be reviewed.
3. The insurance carrier denied dates of service February 20, 2006, March 31, 2006 and May 10, 2006 using denial code 29 and F386 – “Date(s) of service exceed (95) day time period for submission per Rule 408.027 and Bulletin No. B-0037-05A.” 28 Texas Administrative Code §133.20(b) states, in pertinent part, that, except as provided in Texas Labor Code §408.0272, “a health care provider shall not submit a medical bill later than the 95<sup>th</sup> day after the date the services are provided.” No documentation was found to support that any of the exceptions described in Texas Labor Code §408.0272 apply to the services in this dispute. For that reason, the requestor in this dispute was required to submit the medical bill not later than 95 days after the date the disputed services were provided.

Texas Labor Code §408.027(a) states, in pertinent part, that “Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment.” 28 Texas Administrative Code §102.4(h) states that “Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery, or electronic transmission or, (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday.” Review of the submitted information finds no documentation to support that a medical bill was submitted within 95 days from the date the services were provided. Therefore, pursuant to Texas Labor Code §408.027(a), the requestor in this medical fee dispute has forfeited the right to reimbursement due to untimely submission of the medical bill for the services in dispute.

4. The requestor billed HCPCS Code L3350 – Heel Wedge on March 17, 2006. The requestor has listed \$161.50 as the amount in dispute. The insurance carrier reimbursement the health care provider \$46.28 with check number 06606373 dated April 7, 2006 in the amount of \$46.28. 28 Texas Administrative Code §134.202(c)(2)(A) states that HCPCS Level II codes A, E, J, K, and L are paid at 125% of the fee listed for the code in the Medicare Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) fee schedule. The DMEPOS fee schedule amount in Texas is listed at \$18.51 multiplied by 125% equals \$23.14.
5. The health care provider billed CPT Codes 97140, 97530 and 97112 on May 19, 2006. The insurance carrier denied the services using 62, X170 – “Pre-authorization was required, but not requested for this service per TWCC Rule 134.600.” In accordance with 28 Texas Administrative Code §134.600(p)(5)(a) non-emergency health care requiring preauthorization includes: physical and occupational therapy services, which includes those services listed in the healthcare Common Procedure Coding System... The health care provider states in their position summary that the physical therapy was authorized by Liberty Mutual and listed the authorization numbers; however, review of the documentation submitted by the healthcare provider finds the healthcare provider did not submit the preauthorization approvals.
6. The healthcare provider billed CPT Code 97750-RM, 3 units, on May 19, 2006. The insurance carrier used payment exception code 45 and P303 – “This contracted provider or hospital has agreed to reduce this charge below fee schedule or usual and customary charges for your business. For services regarding the First Health owned Network Contract, please call...” and reimbursed the healthcare provider \$85.50. Review of the submitted information finds insufficient documentation to support that the disputed services are subject to a contractual agreement between the parties to this dispute. The above denial/reduction reason is not supported. The disputed services will therefore be reviewed for payment in accordance with applicable Division rules and fee guidelines. In accordance with 28 Texas Administrative Code §134.202(c)(1) for service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Surgery, Radiology, and Pathology the conversion factor to be used for determining reimbursement in the Texas workers' compensation system is the effective conversion factor adopted by CMS multiplied by 125%. Additional reimbursement in the amount of \$21.04 is recommended.
7. On April 7, 2006 the healthcare provider billed CPT Code 99215. The insurance carrier denied the services using denial code 150, X901 – “Documentation does not support level of service billed.” In accordance with 28 Texas Administrative Code §133.307(c)(2)(E) the healthcare provider shall include in their request a copy of all applicable medical records specific to the dates of service in dispute. Review of the submitted documentation shows no medical records were submitted to support the level of service billed.

On June 2, 2006 the healthcare provider billed CPT Codes 99354 – prolonged service and 99211 – Office/outpatient visit. CPT Code 99354 was denied by the insurance carrier using denial codes 50, X375 – “Unnecessary Medical Treatment or Service.” CPT Code 99211 was also denied with the same codes but also

included denial codes W9, X435 – “Based on peer review, further treatment is not recommended.” In accordance with 28 Texas Administrative Code §133.307(a)(2)(4) retrospective necessity disputes involve a review of the medical necessity of health care provided. The dispute is reviewed by an independent review organization pursuant to commission rules, including §133.308 of this title. Medical Fee Dispute Resolution does not have the authority to review issues of medical necessity; therefore, this date of service will not be reviewed.

### Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$21.04.

### ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$21.04 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

### Authorized Signature

_____	_____	January 31, 2013
Signature	Medical Fee Dispute Resolution Officer	Date

### YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**